

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of WESLEY VAUGHN QUINN,
Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

JOSEPH J. QUINN III,

Respondent-Appellant.

UNPUBLISHED

July 22, 2003

No. 243510

Oakland Circuit Court

Family Division

LC No. 99-625268-NA

Before: Zahra, P.J., and Talbot and Owens, JJ.

MEMORANDUM.

Respondent appeals as of right from the trial court order terminating his parental rights to the minor child under MCL 712A.19b(3)(g). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E)(1)(b).

Respondent signed a parent agency agreement in 1999 and failed to make progress on it for three years. Respondent was the minor child's putative father because the mother was legally married to another man at the time of the child's birth. Respondent had signed an affidavit of parentage in Indiana shortly after the minor child's birth there, held himself out as the child's father, indicated a desire to plan for the child, and was, thus, offered services from 1999 to 2002. The trial court terminated the legal father's parental rights in February 2002 and then named respondent in a petition for termination.

Respondent failed to provide proper care or custody of the minor child, and while not legally obligated to do until the legal father's parental rights were terminated, respondent was legally obligated to comply with the court ordered parent agency agreement in preparation to care for the child. MCR 5.973(A); *In re Macomber*, 436 Mich 386, 389-391; 461 NW2d 671 (1990). He failed to do so. Thus, the trial court did not clearly err in finding that the statutory ground for termination was established by clear and convincing evidence. MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Further, the trial court did not err in finding that termination of respondent's parental rights was not clearly against the minor child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

We next address respondent's argument that the trial court abused its discretion in refusing to order that his psychological evaluation take place in Indiana, where he was incarcerated, and in refusing to order a psychological evaluation of the minor child prior to making a best interests determination. Whether to order a psychological evaluation is within the trial court's discretion. MCR 5.923(B); *In re Bell*, 138 Mich App 184, 187-188; 360 NW2d 868 (1984).

In this case, the trial court had previously adjourned the best interests hearing to schedule a psychological evaluation to accommodate respondent's anticipated release date, but respondent was not released. Further adjournment would have only delayed permanence for the minor child. The trial court did not abuse its discretion in refusing to order the psychological evaluation to take place in Indiana or in refusing to adjourn the best interests hearing a second time.

Furthermore, the evidence established that the minor child exhibited anxiety for fear of being taken from his foster home and returned to respondent and not because he missed respondent. A psychological evaluation of the minor child was not necessary to determine this, and the trial court did not abuse its discretion in refusing to order one. *Bell, supra* at 187-188.

Affirmed.

/s/ Brian K. Zahra
/s/ Michael J. Talbot
/s/ Donald S. Owens